

WEST VIRGINIA INFORMATIONAL LETTER
INSURANCE COMMISSIONER

No. 10
January, 1980

VALUED POLICY LAW

It has come to the attention of the West Virginia Insurance Commissioner that a number of insurers are not settling losses under fire insurance policies in compliance with Chapter 33, Article 17, Section 9 of the West Virginia Code of 1931, as amended.

The Insurance Commissioner has heretofore approved fire insurance policies containing provisions contrary to this Section of the Code, based upon assurances that such contrary provisions would not be implemented within this State.

Recently, however, the Insurance Commissioner has noted a significant increase in the number of complaints made due to settlement of claims in derogation of said statute.

Since the entire situation is precipitated by policy clauses at variance with Chapter 33, Article 17, Section 9 of the West Virginia Code of 1931, as amended, you are hereby notified that, effective March 1, 1980, no fire insurance policy containing language not in accordance with the provisions of Chapter 33, Article 17, Section 9 of the West Virginia Code of 1931, as amended, shall be approved by this Department for use within the State of West Virginia.

You are further notified that the Insurance Department will vigorously enforce the provisions of said statute to the full extent authorized by law.

In order to prevent misunderstanding and confusion on the part of agents and/or insureds, the Insurance Department suggests that an amendatory endorsement be issued to all existing policyholders and attached to each new policy issued within the State. Said endorsement should void any nonconforming provisions in the policy and set forth the terms of settlement in accordance with the provisions of Chapter 33, Article 17, Section 9 of the West Virginia Code of 1931, as amended.

Acceptable format for such Amendatory Endorsement is as follows:

AMENDATORY ENDORSEMENT

This language changes the provision of your policy and should be attached to your policy for future reference.

SETTLEMENT OF TOTAL OR PARTIAL LOSS

(Policy section identification) is hereby deleted and replaced by the following:

In the case of total loss by fire or otherwise, as stated in the policy, (the Company) agrees to pay the whole amount stated in the policy declarations upon the real property insured; and in case of partial loss by fire or otherwise, as aforesaid; of the real property insured, (the Company) agrees to pay the total amount of such partial loss, not to exceed the whole amount of insurance upon such real property as stated in the policy. No depreciation nor coinsurance clause shall be applied in any manner to the settlement. This endorsement is void if insurance covering the same interest in a property has been procured from one or more insurers in addition to (the Company).

Pursuant to Chapter 33, Article 17, Section 8(a)(2) of the West Virginia Code of 1931, as amended, any endorsement with language and format identical to that outlined above need not be filed with the Insurance Commissioner for approval. All other endorsements must be filed with and approved by the Commissioner in accordance with Chapter 33, Article 17, Section 8(a)(1) of said Code.

It is expected that all agents and other interested parties will be notified of the applicability of Chapter 33, Article 17, Section 9 of the West Virginia Code of 1931, as amended, and its impact, if any, on claims handling procedures.

Richard G. Shaw
Insurance Commissioner